

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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Jason Coe Day,

Civil No. 11-2458 (SRN/LIB)

Petitioner,

v.

ORDER ADOPTING REPORT  
AND RECOMMENDATION

Tom Roy, Minnesota Commissioner  
of Corrections,

Respondent.

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The above matter comes before the Court upon the Report and Recommendation of United States Magistrate Judge Leo I. Brisbois dated May 1, 2012. No objections have been filed to that Report and Recommendation in the time period permitted.

Based upon the Report and Recommendation of the Magistrate Judge, upon all of the files, records and proceedings herein, now makes and enters the following Order.

**IT IS HEREBY ORDERED** that:

1. Respondent's Motion to Dismiss [Docket No. 6] is GRANTED.
2. Petitioner's petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 [Docket No. 1] is denied.
3. This action is DISMISSED WITH PREJUDICE.
4. Petitioner shall not be granted a Certificate of Appealability in this case.

**LET JUDGMENT BE ENTERED ACCORDINGLY.**

Dated: May 22, 2012

s/Susan Richard Nelson  
SUSAN RICHARD NELSON  
United States District Judge